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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,502	11/27/2001	Donald E. Mosing	504	1988

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THE MATTHEWS FIRM  
2000 BERING DRIVE  
SUITE 700  
HOUSTON, TX 77057

EXAMINER

STODOLA, DANIEL P

ART UNIT PAPER NUMBER

3679

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,502

Applicant(s)

MOSING, DONALD E.

Examiner

Daniel P. Stodola

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-5, 8-10, 12, 15, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Guice ('209) as advanced in the final rejection mailed on July 24, 2003. With respect to the added limitation of the textured relief forming indicia that is imprinted on the opposing surface, applicant's attention is directed to Col. 4, lines 15-46, and more particularly lines 24-25 and 30-31, wherein it is disclosed that the gripping teeth 32 create an imprint. This imprint constitutes an "indicia". With respect to claim 10, the imprint pattern constitutes a "drawing".

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 7, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guice ('209) as applied to claims 1, 3-5, 8-10, 12, 15, and 16 above and further in view of Bee et al ('086) as advanced in the final rejection mailed on July 24, 2003.

### ***Response to Arguments***

Applicant's arguments filed July 26, 2005 have been fully considered but they are not persuasive.

Contrary to applicant's allegation with respect to claims 1, 5 and 12 beginning at the bottom of page 6 of the response, Guice ('209) specifically discloses that the gripping teeth bite into the surface opposing the die. By virtue of this biting engagement, an imprint will be left. This "imprint" constitutes "indicia", i.e., distinctive marks. Accordingly, the language of the claims still does not avoid the prior art structure disclosed by Guice ('209).

With respect to the Section 103 rejection and the recitation that the surface depressions be more than one one-thousandth of an inch deep, it should be noted that the teeth of Guice ('209) must be of a dimension to enable them to bite into and grip the opposing surface sufficiently so as to be able to perform their intended function. Guice ('209) is silent on the dimensioning of the gripping teeth. Nevertheless, it is expected of the hypothetical one of ordinary skill to be able to routinely experiment to determine the optimum value for a particular application. In this instance, it is expected that one of

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ordinary skill in the art would be able to determine the proper dimensions of the gripping teeth to enable sufficient bite so as to function properly as the disclosed means for positively controlling the coefficient of friction. The secondary reference to Bee et al ('086) provides a teaching of two one-thousandths of an inch. Applicant's remarks do not allege that this combination is improper. Rather, it is applicant's position that no indicia imprint is left. As noted above, the act of "biting" into the opposing surface leaves an "imprint" and the markings left as a result of the biting engagement constitute "indicia". There is no structural connotation in either the term "imprint" or the term "indicia" that would serve to patentably distinguish the instant claims from Guice ('209).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Stodola whose telephone number is (571) 272-7087. The examiner can normally be reached on Monday through Friday from 6:00 a.m. to 2:30 p.m.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

STODOLA

December 27, 2005

A handwritten signature in black ink that reads "Daniel P. Stodola". The signature is written in a cursive style with a large, looping initial "D".

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600